

# IOWA BenchPress



Newsletter of the Iowa Judicial Branch

March-June 2003

## Budget Problems to Linger in FY 04

**M**ore cost-cutting measures lie ahead for the Iowa court system in fiscal year 2004. The Iowa Judicial Branch faces a \$2.5 million operating shortfall because the legislature did not appropriate enough money for the courts, as well as other state departments and agencies, to cover approved salary increases for state employees.

It is going to be another tough year, but we'll do all we can to avoid furloughs and layoffs," said Chief Justice Louis Lavorato. "We'll need to continue to hold the line on filling vacancies and take other stringent measures to save money."

For the past couple of years, the number of unfilled vacancies in the courts has hovered around 60 to 65 full-time equivalent positions, which saves the judicial branch roughly \$2 million a year.

Earlier this year the supreme court asked the legislature to provide it with more management flexibility to help it balance the budget. The legislature responded by passing House File 694. The bill, which Governor Vilsack signed on May 23, contains a number of statutory changes to help

the judicial branch cope with budget cuts, including allowing one person to serve as clerk of court for up to four contiguous counties, and authorizing the chief justice to temporarily delay filling judicial vacancies for budgetary reasons.

signing ceremony in the new supreme court courtroom. He complimented the chief justice, the bar, the Iowa Judges Association, and the Iowa Clerks Association for their parts in crafting the first major court reform bill in decades.



*The Supreme Court courtroom is the setting as Governor Vilsack signs HF 694 which approves several important major court reforms.*

House File 694 also contains a request to the legislative council to appoint a 31-member committee to study the controversial issue of judicial districting.

A lot of people worked long and hard to make this day a reality," said Governor Vilsack during a special bill

# Justice Neuman to Retire From Supreme Court

Justice Linda K. Neuman, LeClaire, the first woman appointed to the Iowa Supreme Court, recently announced that she will take retirement from the supreme court this summer. Neuman has served on the court since 1986.

"I have decided to take early retirement and anticipate retiring from the court no later than July 11, 2003," said Justice Neuman. "It has been my privilege and honor to serve the people of Iowa as a judge. My colleagues, on both the trial and appellate bench, have been outstanding."

Justice Neuman received her bachelor's degree from the University

of Colorado in 1970. She graduated from the University of Colorado Law School in 1973. She married law school classmate and Iowa native, Henry Neuman. After graduating from law school she joined a Davenport law firm, and later, served as Scott County Magistrate. In 1982, she was appointed to the district court for the seventh Judicial District of Iowa where she served until her appointment to the supreme court. She earned a Masters of Law Degree from the University of Virginia Law School in 1998.

Justice Neuman approached all of her work on the court with enthusiasm

and drive," said Chief Justice Louis L. L. L. One of her greatest accomplishments was to chair the court's Commission on Planning for the 21<sup>st</sup> Century. The commission's report has served as the blueprint for all of our strategic planning efforts since 1996.

Justice Neuman has been active in the Judicial Division of the American Bar Association, as chair of the Appellate Judges Conference, and as a member of the Committee on Standards of Judicial Administration. She is a fellow of the American Bar Foundation and a former director of the National Association of Women Judges. She chaired the Iowa Supreme Court Commission on Planning for the 21<sup>st</sup> Century.

As for her plans for the future, Justice Neuman will be teaching an ethics course at Iowa Law School this summer. She is also considering returning to private practice and working as a mediator.



**Justice Linda K. Neuman**

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# Supreme Court Appoints Boyd as State Court Administrator

Last month the Iowa Supreme Court appointed David K. Boyd, Urbandale, as State Court Administrator. Boyd replaced William J. O'Brien, who retired May 22 after serving as state court administrator for nearly 30 years. Boyd will be responsible for the day-to-day management of the state court system, which employs about 1800 people and has a \$116 million annual operating budget.

"The court has the utmost confidence in David Boyd, who has the management skills and depth of experience required for this crucial role," said Chief Justice Louis Lavarato. "He also has great working relationships with the legislature, the executive branch, and the unions."

David K. Boyd has served as deputy state court administrator since 1984. Prior to this position, he was the district court administrator for the Third Judicial District of Iowa for seven years. Boyd earned a Bachelor of Arts degree from the College of Idaho in 1973 and a Master's Degree in political science and government from the University of Arizona in 1976. In addition, he has received specialized training at the Institute of Court Management.

When asked about the state's severe financial problems, which have resulted in dramatic budget cuts, Boyd said, "The state's finances make it extremely difficult for the courts to carry out their basic functions, let alone make progress. However, I believe these challenges create opportunities."

Boyd said that he has five goals as state court administrator:

- Helping the judicial branch keep its mission of serving the people in the forefront.
- Helping foster an environment that encourages management flexibility and creativity.
- Helping the court balance the budget without further layoffs or the use of furloughs.
- Helping the judicial branch restore and revitalize its education program.
- Helping the judicial branch implement electronic document management and ICIS II.



*David K. Boyd*

## Friends of Iowa CASA Honors Judge Vogel

On March 26 during a ceremony in the Capitol rotunda, Friends of Iowa CASA presented the sixth annual Child Advocate of the Year award to Iowa Court of Appeals Judge Gayle Vogel. The award recognizes Iowans who have demonstrated outstanding efforts to make a positive difference in the lives of Iowa children.



*Judge Gayle Vogel*

Friends of Iowa CASA recognized Judge Vogel for her leadership efforts to reduce the amount of time necessary for appellate review of orders terminating parental rights.

"I'm deeply honored by the award," said Judge Vogel. "The Court Improvement Project provided the talented task force members who considered and made fundamental changes to how appeals are taken in termination cases."

From 1998 to 2000, Judge Vogel chaired a task force of the Iowa Court Improvement Project that

designed an expedited appeals process for termination of parental rights cases. As a direct result of the new procedures, the time from the filing of a notice of appeal to the conclusion of the case has gone from an average of 13.2 months to an average of only 4 months. This means that children can be adopted sooner, or, in some cases, families wait less time before they're reunited. In addition, the changes save judicial resources and attorney time, as well as freeing up time for busy social workers so that they can attend to the needs of other children.

"Volunteers from both the foster care review board and the CASA program have indicated that this has been the single biggest improvement in permanency for abused and neglected children to have occurred in over a decade," said Don Ross, President of the Board of Directors of Child Advocacy when presenting the award to Judge Vogel.

The supreme court appointed Judge Vogel chair of the Iowa Court Improvement project in March 2002. She has been working with court officials from around the country, helping others develop similar procedures. In May she was a guest speaker at the Annual national Permanency Planning Forum in Washington, D.C.

Friends of Iowa CASA exists to build awareness of child abuse issues and specifically, the benefits of the CASA program. The organization also provides training opportunities for CASA volunteers such as the Annual Volunteer Conference, focuses on recruitment and retention of volunteers by recognizing the Child Advocate of the Year and CASA Volunteer of the Year.



## New Faces

**Bldg. Operations:** **John VanClark**, *Des Moines*, Maintenance Engineer; **Kenneth Murphy**, *Des Moines*, **Kent Stevens**, *Des Moines*, **Jane Simbro**, *Des Moines*, Security Officers.

**Court of Appeals:** **Kerri Keyte**, *Des Moines*, Legal Assistant.

**District 1:** **Carrie Nauman**, *Waterloo*, Court Reporter.

**District 3:** **Patricia Schumacher**, *Emmetsburg*, **Tami Van Patten**, *Sioux City*, **Tyler Snow**, *Sioux City*, **Susan Hase**, *Storm Lake & Cherokee*, Judicial Clerks; **Douglas Noble**, *Sioux City*, Accountant/Auditor, Juv Court; **Nicole Parks**, *Sioux City*, Legal Assistant.

**District 4:** **Diane Thieschafer**, *Council Bluffs*, Judicial Clerk; **Jennifer Reynolds**, *District 4*, Court Reporter; **Stacy Shelly**, *Council Bluffs*, Legal Assistant.

**District 5:** **Josie Johnson**, *Des Moines*, Court Reporter; **Barbara Nelson**, *Des Moines (transfer from D7)*, **Tamera Courter**, *Des Moines*, **Adam Wilson**, *Des Moines*, **Jannette Rothrock**, *Des Moines*, **Somer Gillett**, *Des Moines*, **Jill Wynn**, *Des Moines (transfer from D8)*, **Sylvia Hill**, *Des Moines*, Judicial Clerks; **Bernard Meis**, *Des Moines*, Legal Assistant; **Carla Schemmel**, *Des Moines*, District Court Judge.

**District 7:** **Bradley Norton**, *Tipton*, Magistrate; **Rita Miller**, *Muscatine*,

**Nicki Nelson**, *Davenport*, **Erin Sebben**, *Davenport*, Judicial Clerks; **Jennifer Criswell**, *Davenport*, Juvenile Court Technician; **Christopher Spencer**, *Davenport*, **Dawn Dooley**, *Clinton*, Juvenile Court Officers; **Rhonda Logsdon**, *Davenport*, Juvenile Court Specialist.

**District 8:** **Carrie Welcher**, *Mt. Pleasant*, **Sheryl Scieszinski**, *Albia*, Judicial Clerks.

## Judicial Branch Awards



*Chief Judge John Nahra presents the Meritorious Service Award for clerk of court personnel to Marilyn Huff, Clinton County Clerk of Court.*



*Tom Betts, 7th District Court Administrator, received an award for Distinguished Service. Rae Jean Berger, Administrative Secretary, received the Meritorious Service Award for court administrative staff.*

## Milestones: Service Anniversaries

### 25 Years

**Barbara Street**, Juvenile Court Technician,  
*Wayne County.*

**Diane Shoemaker**, Judicial Clerk, *Scott County.*

**Alice Bemis**, Judicial Clerk, *Fayette County.*

**Gaylene Johnson**, ICIS, *Polk County.*

**Jeannine Snavely**, Clerk of Court, *Palo Alto.*

**Sibylle Wolfe**, Case Coordinator Specialist,  
*Clinton County.*

**Barbara King**, Judicial Clerk, *Cedar County.*

**Diane Ryerson**, Clerk of Court, *Hardin County.*

**Linda Bever**, Judicial Clerk, *Dallas County.*

**Traci Tharp**, Clerk of Court, *Decatur County.*

### 30 Years

**Anne Sherman**, Court Attendant, *Linn County.*

**Ezra Sillas**, Juvenile Court Officer, *Polk County.*

**Karen Hill**, Court Reporter, *Story County.*

**Diane Nelson**, Case Coordinator Specialist,  
*Muscatine County.*

**Marcella Segebart**, Clerk of Court, *Ida County.*

**Max Williams**, Juvenile Court Officer,  
*Polk County.*

**Sheryl Neal**, Clerk of Court, *Iowa County.*

**Debra Meyers**, Judicial Clerk, *Delaware County.*

# Chief Justice Lavorato Honored By Drake

**D**rake University awarded an honorary Doctor of Laws degree to Chief Justice Louis Lavorato during Drake's commencement ceremony on May 10. The Chief Justice, who earned both his undergraduate and law degrees at Drake, told the crowd about his father's faith in the value of education.

As a child of Italian peasant stock, he received a limited education and thereafter had two choices: learn a trade or work in the fields. He chose at the tender age of eleven to learn a trade—shoe cobbler.

He came to this country at age nineteen. He arrived in Des Moines, plied his trade, married and had four children. Education was all-important to him because he wanted something better for his children. He was always urging us to study hard and learn. He had two burning desires: one, that all of his children would receive a good education, and two, that at least one child would become a lawyer, something he always wished he could have done.

When my two younger siblings reached college age, my father made sure they would have the opportunity for higher education. He did this by becoming a janitor at Drake, which



*Chief Justice Lavorato receives his honorary Doctor of Laws degree.*

assured my brother and sister a tuition scholarship. As for me, Uncle Sam took care of my education through the G.I. Bill.

As an immigrant, my father recognized and appreciated the hallmark of this great democracy: Everyone in this country has the opportunity to go as far as their abilities will take them, and education is the key to turning this opportunity into reality.

If [he] were here today, he would say to you graduates in his broken English: Education is a good thing; cherish it; once you have it, no one can take it away from you.



## Sixth District Awards

**A**midst staff shortages and budget cuts, employees of the Sixth Judicial District had a little morale boost on February 17<sup>th</sup> as the district's Awards Committee hosted the Fourth annual Employee Awards Ceremony. The award recipients, their families and friends, members of the awards committee, and staff from all of the district's courthouses attended the event. Chief Judge David Remley and Court Administrator Carroll Edmondson presided over the ceremonies. The judges, clerks of court, and managerial staff funded the awards out of their own pockets.

The 6th District Employee of the Year Award was given to Sue McConnell of the Court Administrator's Staff who will be retiring in June. She is responsible for scheduling cases in four counties, and you will find her smiling into her headset as she spends her days on the phone conferring with attorneys and judges about the schedule. Sue was recognized for her organizational abilities that simplified the information procedures used by the clerks in the four counties in which she schedules. She was also recognized for her sense of humor and panache in dealing with judges, attorneys, and court staff. Her smiling face, hard work, medical advice and coffee cake will be sorely missed when she retires.

The Teamwork Award was given to GERALYN Russ, MARCI Summers, LEANN Wagner, PEG Michaelson and DEB Patnode, the Jones County Clerk's Staff. They are so dedicated to providing service to the public despite having staff cuts of nearly 40%, not only did they cross-train for each other's jobs, but all five decided not to take vacations or sick leave out of concern and respect for one another. Deb Patnode from Court Administration assumed extra clerk's duties in an effort to help out. They truly are an inspiration in these difficult times and exemplify what teamwork is all about.

The Public Service Award was given to Sandy Dains of the Court Administrator's Office in Johnson County. Dains has worked for the Judicial Branch for 26 years and was nominated by the Johnson County Bar Association. In nominating her, the bar recognized, along with the rest of the district, Sandy's wonderful ability to be helpful and kind not only to lawyers, pro se litigants, and judges, but even to eager, litigious, young law student interns.

The Distinguished Service Award was given to Diane Hixson, supervisor in the traffic division of the Linn County Clerk of Court's Office. Hixson has worked in the Clerk's Office for 33

years and was recognized for her tireless efforts and for her almost encyclopedic knowledge of clerk's duties. Whenever people are stumped about what to do, they go to Diane, even if it is on a Saturday or Sunday, as she is usually here, slaving away at the backlog.

The Friend of the Court award was given to Linn County's Courthouse Security Staff from the Linn County Sheriff's Department. The award recipients were Ken Patrick, Randy Bramow, Jeff Norton, Rick Barrett, Joe Losch and Michael Cline. It was quite a change for all employees when full security measures were put in place in July. The deputies were given this award not only for the excellent protection they provide, but because of the grace and sense of humor with which they provide this service. They have become a welcomed part of the courthouse family.

Dedicated Service Awards were given to Herbert Wicks, Johnson County Juvenile Court Office for 35 years of service; James Leideigh of the Linn County Juvenile Court Office and Cynthia Forsyth, Benton County Clerk of Court, for 30 years of service; Rebecca Oberhauser, Jenny Pusateri and Roberta Brown of the Linn County Clerk's Office, Lloyd



*Continued from page 8*

Smith of the Linn County Juvenile Court Office, and Ann Hendricks, Tama County Clerk of Court, for 25 years of service; to Judges Sylvia Lewis and Robert Sosalla, Ellen Tucker, Court Reporter, Michelle Edwards and Jean Kvach, Linn County Clerk's Office, and Tamara Ollinger, Johnson County Clerk's Office, for 20 years of service.

In addition to the 6<sup>th</sup> District's five exemplary service awards that were presented, two statewide Judicial Branch awards were handed out. The Small Claims Mediators for Linn County received the Judicial Branch Amicus Curiae Award and Judge William L. Thomas received the Judicial Branch Court Innovation award.



*Judge William L. Thomas*



*Linn County Sheriff's Department Courthouse Security (left to right) Rick Barrett, Randy Bramow, Michael Cline, Jeff Norton, Joe Losch, Ken Patrick.*



*Jones County Clerk Staff (left to right) Marci Summers, Geralynn Russ, Peg Michaelsen, Deb Patnode, Leann Wagner*



*Linn County Small Claims Mediators (left to right) Roger Schreder, Jerry Higgins, Carl Bauer, Dana Ehrhart, Ann Larson, LeRoy Robbins, Marilynn VanHoe, Jean Seehusen, Marjorie Henderson.*

# Tech Report: EPA, Deferred Judgments, E-Pay, Bandwidth, and Jury Management

The Iowa Judicial Branch continues to make solid improvements in the area of information technology. In a nutshell, the ICIS office, which is responsible for developing, supporting and managing court technology, is busy making life easier for the rest of us.

## **EPA**

The electronic public access system is a huge success with 12,000 to 15,000 daily users and an average of 75,000 hits per day. The most common inquiries are for name searches and child support information.

The secured access and subscription features, which enable users to access more detailed case information, are also popular. About 1200 local, state, and federal government officials use the secured access feature, while 800 users, including attorneys, abstractors, news reporters, and private citizens, have subscribed to the fee service.

## **E-Pay**

In the near future we'll all be able to pay our traffic fines without making a trip to the courthouse. This summer, E-Pay, an electronic payment feature, will be added to our family of online services.

## **Deferred Judgment Docket**

Judges, clerks of court, and county attorneys can access the deferred judgment database online. Access will be available to corrections staff effective July 1 assuming the governor signs HF 694. Contact the Help Desk to register for access.

## **Network Bandwidth**

Earlier this year the supreme court approved network upgrades for the 49 clerks' offices using 56KB circuits. The lines will be changed to T1 connections, which will expand network capacity in those offices. The ICIS office expects the work to be done by the end of July.

## **Jury Management**

ICIS is testing a new version of the jury management program and expects to deliver the product in June.

## **Jury Source Code Update**

Last year, there were a number of problems with the jury source such as duplicate names, names of children,

wrong addresses, and names of deceased persons. Some of the problems are due to staff lay-offs at the department of transportation, which provides the drivers license records as a source for the list. ICIS has developed a plan for correction of the problem, and is presently implementing the new source list.

ICIS is also working with the department of health to develop an electronic interface to exchange death record information, which will help improve the accuracy of the jury source code.

# Judicial Branch Building Dedication and Open House

On a gray and blustery May 1, a small crowd gathered on the plaza of the new Judicial Branch Building to celebrate the building's dedication. The new building is home to the Iowa Supreme Court, Iowa Court of Appeals, and State Court Administration. The five-story, classically derived limestone structure, which took nearly five years to plan and build, served as the backdrop for the dedication ceremony.

The noontime program began with a musical prelude by the southern Iowa string quartet Dragonbow, followed by the presentation of colors by members of the Iowa National Guard, and a stirring arrangement of the national anthem sung by the a capella group Octangle. Governor Vilsack and former State Senator John Jensen each made brief remarks.

"They say that justice is blind," said Governor Vilsack. "After today it will also be beautiful."

Chief Justice Louis Lavorato served as master of ceremonies and the main speaker. "The building's strong, identifiable civic presence is a visual testimony to the independent status of the judicial branch and the pivotal role it serves," said Chief Justice Louis Lavorato. "It also serves as a permanent symbol of the strong partnership among our three branches of government."



*Chief Justice Louis Lavorato, Governor Tom Vilsack, former Senator John Jensen*

Immediately after the ceremony, the supreme court was back at work hearing oral arguments while dignitaries and visitors toured the building.

On Saturday, May 3, nearly one thousand people toured the new building during the public open house. Court staff served as tour guides for curious visitors who came to see the latest addition to the state Capitol complex. Guides described the building's key features as well as the history and symbolism of the ten historic murals displayed in the building, while justices and judges visited with guests in the building's two courtrooms. A Power Point program about the building project and the mural restoration project played continuously throughout the day in the building's small 48-seat auditorium. In

a corridor leading to the atrium, visitors could view, at their leisure, drawings and photographs of the various stages of the project.

For a portion of the event, guests were treated to musical performances. The Des Moines Community Band entertained visitors outside on the building plaza. The vocal group Octangle, and later a string quartet, performed inside the building atrium.

## Supreme Court Broadcasts Oral Arguments Over ICN

**T**he Iowa Supreme Court marked Law Day on May 1st with the first live broadcast of oral arguments over the ICN network. More than 650 students from 24 high schools across the state participated. The students viewed a video narrated by Chief Justice Lavorato that provided an overview of the appellate process and gave a brief tour of the new Judicial Branch Building. Students then heard arguments in the case *State v. Donaldson*. Following arguments, students participated in a question and answer session with the attorneys who argued the case before the court, Nan Jennisch and Martha Boesen. The supreme court law clerks were also on hand to answer questions about the court. Many teachers who



*Left to right: John Wheeler, Iowa Bar Association; Amy Thomas, law clerk for Justice Jerry Larson and ICN staff member.*

participated in the program expressed the hope that broadcasts of oral arguments will occur regularly. The planning committee for this event would like to send special thanks to

Scott Ruhnke, whose technological know-how got the broadcast up and running, and John Wheeler from the Iowa Bar Association who helped run the broadcast.

## Polk County Moves Old Court Files From Courthouse

**I**n March, the Polk County Clerk's Office moved thousands of old court records from the basement of the Polk County Courthouse to an off-site storage facility. Court and county officials decided to move the records after fighting an ongoing battle against rats living in the basement where the records were stored.

According to Randy Osborne, the supervisor in charge of the project, the move went smoothly. Approximately 300,000 closed case files and 25,000 rolls of microfilm were moved from the courthouse and into the new facility. The new storage facility is not only rat free, it has plenty of space and an option for more space in the future.

Court officials have arranged for a courier service to transport records to and from the courthouse. All requests for old records must be made in person at the courthouse. A courier service will make six round trips a day to deliver records. Pending case files will remain at the courthouse.



# Court Looks for Comments Regarding Creation of Administrative Council

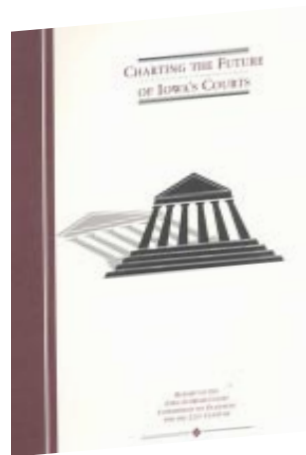
The Iowa Supreme Court is seeking comments on the concept of creating a broadly representative administrative council to provide guidance to the court and the State Court Administrator in the overall management of Iowa's courts. The idea of establishing an administrative council to advise the court on administrative matters was recommended by the Iowa Supreme Court Commission on Planning for the 21<sup>st</sup> Century.

In its 1996 report, the Commission stated: "Court administration is a significant and important responsibility of the supreme court. However, in an era of growing demands on the courts and increasing managerial complexity, the Supreme Court needs a more effective mechanism for delegating administrative authority and providing guidance in the overall administration of the courts. An administrative council would serve as such a mechanism providing general policy and oversight for the administration of Iowa's courts."

Most states rely on at least one top-level advisory group to advise the state supreme court on rules and issues related to the administration of justice. The roles and memberships

of these administrative bodies vary widely from state to state.

As envisioned by the Commission on Planning for the 21<sup>st</sup> Century, the administrative council for the Iowa



Judicial Branch would be responsible for developing a mission, setting goals, and developing action plans for promoting continuous improvement

in the court administration system. In addition the council would approve standards of performance, develop methods of monitoring and measuring performance, and resolving conflicts while maintaining a working environment within the court system that provides both the structure and flexibility to foster innovation and change when needed.

The Commission also proposed that the administrative council be composed of representatives from every area and level of court administration and the judiciary, as well as lay persons, to assure a balance of available perspectives and expertise.

The supreme court has made no decisions about the composition or duties of the proposed council. The court is in the early stages of exploring this concept and hopes that suggestions from court personnel will help it formulate a proposal. It is envisioned that the Iowa Judicial Council would continue to advise the court pursuant to its statutory role, notwithstanding the creation of a more broadly based administrative council.

Comments should be directed to John Goerdts, State Court Planner.



# New Legislation 2003

**W**ith the session and special session behind us, it's time to survey new legislation of interest to judges, magistrates, and court personnel.

The following article is a summary, not a complete statement, of the new laws. For the full text and history of bills approved by the general assembly, visit [www.legis.state.ia.us](http://www.legis.state.ia.us). Please note that the provisions of HF 694, the judicial branch omnibus bill, are mentioned in several categories.

## Appropriations

### *Regulatory Agencies* **HF 655**

This bill includes the appropriations for a number of regulatory agencies and offices such as the Child Advocacy Board, which oversees the operation of CASA, the state information technology department, and IowaAccess.

### *Health and Human Services* **HF 667**

This bill contains the appropriation for health and human services agencies including the department of human services and its programs. Among other things, the bill appropriates funds for the operations of the state's juvenile institutions, child and family services such as group foster care, structured juvenile beds, family preservation, school-based supervision, and court-ordered services. Item Veto.

### *Values Fund: Judicial Salaries* **HF 683**

This bill, which was passed during the special session, provides a 2% salary increase to judges and magistrates, which is effective in December. The bill also contains an additional appropriation to the salary adjustment fund.

### *Tobacco Settlement Proceeds* **HF 685**

This bill allocates funds from the tobacco settlement proceeds to various programs including the department of corrections for operation of the drug court programs for the third, fourth, and fifth judicial districts to replace expired federal funding.

### *Supplemental Appropriations* **SF 36**

This bill, which was approved early in the session, contains supplemental appropriations to the departments of corrections, human services, public safety, and the state public defender for the current fiscal year.

### *Judicial Branch Operations* **SF 435**

This bill appropriates funds to the judicial branch for general operations and the judicial retirement program for fiscal year 2004. The bill provides \$113 million for general operations, a \$4.2 million increase over this fiscal year. This is enough to supplant the one-time appropriation made last year for salary adjustments and to provide a small amount to use for operating the new judicial building.

The bill requires the judicial branch to provide the legislature with a number of financial reports, to focus efforts on collections of fines and fees, and to operate clerk of court offices in all ninety-nine counties as is reasonably possible. The bill requires the supreme court, in consultation with the Iowa State Bar association and district judges, to study methods for achieving savings and cost-efficiencies. Other organizations may file a report with the court. The court must submit a final report to the general assembly by December 15, 2003. All reports must be in electronic format.

### *Justice Systems* **SF 439**

This bill contains appropriations to justice system agencies such as the attorney general, department of corrections, community-based corrections, state public defender, and law enforcement academy, and to the Iowa Communications Network, for fiscal year 2004.

### *Infrastructure* **SF 452**

This bill appropriates funds from the rebuild Iowa infrastructure fund and other special state funds. The bill authorizes the judicial branch to retain up to \$400,000 of money remaining from the judicial branch building construction project for the operation of the building. Item Veto.

## New Legislation

*Continued from page 14*

### ***Salaries of State Employees***

#### ***SF 458***

The bill appropriates \$28 million for distribution to state agencies and departments except the board of regents and regents institutions for salary adjustment for fiscal year 2004, which is about \$10 million short of the amount needed. Nearly \$2.7 million of the \$28 million must be allocated to the judicial branch for salary adjustment. The bill provides for salary increases for contract and non-contract employees only. Item Veto.

## **Civil**

### ***Notice: Damages for Bad Checks***

#### ***HF 319***

This bill expands the allowable methods of delivering notice to a defendant that damages would be sought for failure to remedy a bad check. Regular mail under certain conditions is allowed.

### ***FED***

#### ***SF 359***

It seems as the procedures for forcible entry and detainer are amended every year, and this year is no exception. This bill provides special requirements for terminating a lease or rental agreement executed by or on behalf of a member of the military. The bill also exempts housing owned by a nonprofit agency that provides housing related to homeless people or people being treated for drug or alcohol dependency, from chapter 648. The bill amends the procedures for executions involving mobile or manufactured homes.

### ***Exceptions to Liability for Certain Recreational Activities***

#### ***HF 584***

This bill limits the liability of prior owners of land on which all-terrain vehicles are operated. It also limits the liability of public entities for injuries to persons engaged in certain recreational sports activities, which occurred on public facilities or involving a public office or employees.

### ***Supersedeas Bond***

#### ***HF 683***

This bill limits the amount of an appeal bond to 110% of the amount of a money judgment. In addition, the district court may, upon motion and for good cause, may stay all proceedings under an order or judgment being appealed and permit the state or any of its political subdivisions to appeal a judgment or order to the supreme court without the filing of a supersedeas bond.

### ***Taxes: Judicial Review***

#### ***HF 683***

This bill adds new provisions concerning the judicial review of actions of the director concerning tax disputes. The court may order the petitioner to file a bond in the amount of tax appealed from. The taxpayer or director may appeal the district court order to the supreme court irrespective of the amount involved.

## **Clerks**

### ***Practices, Procedures, and Appointment***

#### ***HF 694***

Among other things, this bill eliminates the residency requirement for clerks of court and enables one person to serve as clerk of court for up to four contiguous counties.

It also amends many practices and procedures used by clerks of district court, including the following:

Clarifies that the sheriff is responsible for serving summons, subpoenas, and notices in juvenile delinquency proceedings.

Removes the clerks and court from the procedure for approving medical care for indigents and shifts these responsibilities to the county general assistance director and the board of supervisors.

Amends the procedure concerning dismissal of a proof of insurance charge by the clerk.

Waives filing fees and court costs for contempt actions arising out of chapter 236 no contact orders.

Amends the procedure for reviewing a vehicle lease and rental agreement for the purpose of prosecuting an unlawful parking charge.

Requires the clerk in a county where a modification of dissolution decree was filed, if it is not the county where the original decree is on file, to notify the clerk in the county where the original decree was filed. This may

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## New Legislation

*Continued from page 15*

be done by email, facsimile or regular mail.

Amends the provision concerning identification of documents filed with the clerk of court. Now in addition to providing an employer identification number, if applicable, and social security number, a party must provide their date of birth. Clerks must continue to keep social security numbers confidential. Parties must provide the information according to rules or directives approved by the supreme court.

Permits clerks to enter a satisfaction of judgment when an obligation of up to \$3 remains unpaid.

Changes the court fees and for simple misdemeanors as follows: \$8 for the filing and docketing of parking violations, and an additional \$8 for parking violations that are contested, and \$17 for all other simple misdemeanors.

Eliminates redundant notices in defaults of small claims.

Creates a flat fee of \$8 for serving small claims petitions by mail.

Requires that certain probate fees be paid directly by the estate rather than having them taxed as costs.

Eliminates and clarifies certain duties pertaining to title of real estate and a court officer's deed.

Clarifies the type of instrument used to set the interest rate for civil judgments under chapter 668.

Permits the clerk to deliver a court's final order concerning reconsideration of sentence, by regular mail.

### ***Notice to Victims of Reopening sentence***

***SF 422***

The bill also requires the clerk of court to notify a registered victim of the motion to reopen the case. The notice shall include the date and time of the hearing. If the hearing is postponed or rescheduled, the clerk shall notify the victim.

## **Criminal**

### ***.08 BAC***

***HF 65***

This bill lowers the blood alcohol concentration level for purposes of OWI to .08. The legislature restricted offenders' eligibility for temporary licenses depending on an offender's BAC and whether or not the offender was involved in an accident.

### ***Identity Theft***

***HF 170***

This bill amends the elements of the crime of identity theft.

### ***Criminal Intelligence Data***

***HF 216***

This bill expands the circumstances under which a criminal or juvenile justice agency may disseminate intelligence data and the conditions for its dissemination. The bill was effective April 9, 2003.

### ***Manufacture, Delivery, Possession of Flunitrazepam***

***HF 249***

This bill enhances the criminal penalty for violations involving flunitrazepam.

### ***Indigent Defense***

***HF 349***

This bill amends chapter 13B to require the court to set for hearing a motion to review the action of the state public defender denying or reducing a claim for attorney fees.

### ***No-Contact Orders***

***HF 404***

The legislature expanded the circumstances for which the court could issue no-contact orders. This bill allows a court to order a criminal defendant to have no contact with the victim of the offense, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense. The no-contact order may extend for a period of five years from the date of judgment is entered or up to the maximum term of confinement, whichever is greater. Under certain conditions, the court may modify and extend the order for up to five years, however there is no limit on the number of extensions that the court may enter. The order shall contain specific directives and state whether the defendant is to be taken into custody for a violation of the order.

Violation of the order is punishable as contempt. A hearing in a contempt

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proceeding shall be held not less than five and no more than fifteen days after the issuance of a rule to show cause, unless the defendant is in custody, in which case a hearing shall be held not less than five and no more than forty-five days after the issuance of the rule to show cause.

The bill defines the word "victim" for purposes of the section.

### ***Fraudulent Use of Credit Card, Reencoder, or Scanning Device HF 504***

This bill increases the criminal penalty for credit card fraud involving services or property worth more than ten thousand dollars, and sets parameters for determining value. It also establishes a new crime of illegal use of a scanning device or reencoder, and penalties for violations.

### ***Unauthorized Computer Access HF 505***

This bill expands the crime of trespass or damage to property to include unauthorized access to operational or support data of a rural water district or municipal utility. The offense is an aggravated misdemeanor.

### ***Municipalities: Prisoner Fees and Venue HF 650***

Allows cities to charge prisoners for costs related to arrest, booking, and room and board provided to the prisoner while in custody. Counties already have this authority. The city attorney may file a claim for reimbursement on behalf of the city with the clerk of court. Money collected by the city for this purpose shall be

credited to the city general fund. The bill provides for venue when an offense is committed in a city located in two counties.

### ***Adult Day Care Services HF 672***

This bill establishes a new crime regarding adult day care services.

### ***Assisted Living Programs HF 675***

This bill establishes a new crime regarding assisted living programs.

### ***Pretrial Release HF 683***

This bill prohibits the release of a person under a plan of pretrial release or on the person's own recognizance if the person is subsequently arrested for a new crime while under the plan of release, the new offense is greater than a serious misdemeanor, and the new offense is based upon a new set of facts or event. The bill also allows the release of a PSI report to a substance abuse or mental health services provider when referring a defendant for services.

The bill amends the provision that requires the court to order a defendant convicted of a felony that caused the death of another person to pay restitution of at least \$150,000 to the victim's estate. The amendment covers victims who died intestate, in which case the offender must pay restitution to the victim's heirs at law.

### ***Deferred Judgment Docket HF 694***

This bill includes among its numerous

provisions, an update of section 907.4 concerning the deferred judgment docket and authority for corrections officers to access the deferred judgment docket maintained by the state court administrator.

### ***Sexual Exploitation of a Minor SF 221***

This bill expands the types of acts covered by the crime of sexual exploitation of a minor.

### ***Child Care SF 351***

This bill establishes a new crime regarding the illegal operation of a child care home.

### ***Tobacco SF 375***

This bill establishes a new crime regarding tobacco.

### ***Grain Dealers SF 394***

This bill establishes a new crime regarding grain dealers.

### ***Hunting SF 397***

This bill establishes a new crime regarding hunting.

### ***Evidence of Prior Offenses SF 402***

In a criminal prosecution for which a defendant has been charged with sexual abuse, evidence of the

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## New Legislation

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defendant's commission of another sexual abuse is admissible and may be considered for its bearing on any matter for which the evidence is relevant. This evidence is not admissible unless the state presents clear proof of the commission of the prior act of sexual abuse. The court may exclude the evidence if the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

The bill also expands the acts considered sexual assault.

### ***Sentencing reforms SF 422***

This bill modifies the penalties for certain offenses related to controlled substances. It also authorizes the court, upon the motion of the county attorney, to reopen the sentence of defendants convicted of certain forcible felonies. There must be a hearing if a victim objects to the motion. The bill also requires the clerk of court to notify a registered victim of the motion to reopen the case. The notice shall include the date and time of the hearing. If the hearing is postponed or rescheduled, the clerk shall notify the victim. In addition, the bill changes the parole and work release eligibility of a person serving time for conviction of certain forcible felonies subject to the 85% requirement. The bill modifies

certain provisions concerning deferred judgments.

## **Judicial Administration**

### ***Judges, Magistrates, and Judicial Districts HF 694***

This bill contains a number of provisions affecting judges and magistrates. It permits the chief justice to temporarily delay the filling of judicial vacancies for budgetary reasons. The bill prohibits judicial nominating commissioners from voting for the nomination of a family member, law partner, or current or former business partner. The legislature eliminated the position of alternate district associate judge and extended the term of district associate judge from four to six years.

The bill allows the chief justice under certain conditions to allocate a district court vacancy, or authorize a voluntary transfer of a district court judge, from one district to another.

The bill creates a new legislative process for the periodic review of the structure of the judicial districts. At least every ten years beginning in 2012, the supreme court shall submit a reorganization plan to the general assembly. The general assembly would vote on the plan within thirty days of submission of the plan in bill form.

The bill reinstates satellite magistrate offices on a limited basis. It requires the chief judge to schedule magistrate court in a non-county seat town if the office was in operation before July 1, 2003, the population of the city is at least thirty thousand or at least two times that of the county seat, the city requests such service and pays the expenses of operating the service.

The bill prohibits regional litigation centers.

The bill requests the legislative council to establish a thirty-one member interim study to review all matters regarding the judicial districts and the allocation of judicial officers.

## **Juvenile**

### ***Child Welfare Services: Aging Out HF 457***

This bill expands the requirements for the transition of children who age out of foster care. It requires the department of human services to establish and maintain local transition committees to address the transition needs of children receiving child welfare services who are aged sixteen and older and who have a case permanency plan. The committee shall identify and act to address any gaps existing in the services or other support available to meet the child and adult needs of individuals for whom service plans are adopted.

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## New Legislation

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Disposition orders for children sixteen years or older shall specify services or other support needed to assist the child when the child becomes an adult. The court may authorize the child's guardian ad litem or court appointed special advocate to continue a relationship with and provide advice to the child for a period of time beyond the child's eighteenth birthday.

### ***CINA Appeals SF 224***

This bill authorizes the supreme court to expedite final orders entered in CINA proceedings. It also reduces the time for filing an application for further review.

### ***Child Protection Assistance Teams SF 353***

The legislature renamed what is known as the county multidisciplinary team established under chapter 232 to local child protection assistance team, and authorized the county attorney to establish the team. The bill also expands the composition of the group and adds more duties.

### ***Federal Indian Child Welfare Act SF 354***

The purpose of this bill is to clarify state policies and procedures concerning the implementation of the federal Indian Child Welfare Act. The new law applies to children who are the subject of child custody, foster care placement, termination of parental rights, and adoption proceedings. Determination of a child's status as an

Indian child must be done as soon as practicable. A written determination by an Indian tribe as to the heritage of the child is conclusive. An Indian tribe has jurisdiction exclusive as to the state over any child custody proceeding held in the state involving an Indian child, except when the jurisdiction is otherwise vested in the state by existing federal law. The law sets out specific notice requirements for the proceedings, which the court must establish in the record.

The law provides for transfer of child custody proceedings to the jurisdiction of the tribal court upon petition of either parent, the child's tribal custodian, or the child's tribe. Another provision allows the tribe or Indian custodian to intervene at any point in any foster care placement or termination of parental rights proceeding involving an Indian child. A party seeking an involuntary foster care placement of or termination of parental rights over an Indian child shall provide evidence to the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that the efforts have proved unsuccessful.

### ***Child Welfare System Redesign and DHS Reinvention SF 453***

This bill requires DHS to initiate a process for designing an outcomes-based system for child welfare and juvenile justice services. The bill

includes a set of specific design principles and considerations, as well as a design planning process involving a stakeholder panel. Implementation of the redesign shall begin no later than January 1, 2004. Item Veto.

In addition, the bill provides for appropriations reductions, including a reduction for any revisions to the judicial branch budget for juvenile court services as a result of the system redesign.

The bill also reduces the budgets of other programs including the state's juvenile institutions, upon enactment of HF 667.

### ***Local Government: Penalties and Regulatory Matters SF 453***

This bill increases the cap on civil penalties for violation of local ordinances. The cap is increased from \$500 to \$750 per infraction, and from \$750 to \$1000 for repeat offenses. The bill also eliminates the cap on the amount cities may charge for parking violations and provides that the fine shall be established by ordinance. The bill equalizes the amount of the appearance bond. The city may increase the fine by \$5 if it is not paid within thirty days of the occurrence. Item Veto.

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## New Legislation

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### Mental Health

#### ***MH/DD System Redesign HF 529***

This bill requires a commission to submit a report to the governor and the general assembly by December 31, 2003, concerning the redesign of the state's mental health and developmental disabilities services system for adults. Effective May 2, 2003.

#### ***Emergency procedures SF 361***

This bill permits judges and magistrates to give oral directions, based upon the circumstances described by the examining physician, for the emergency detention of a person under chapters 125 and 229. The magistrate or judge must follow-up with a written order by the close of business on the next working day.

### Miscellaneous

#### ***Qualification of Electors HJR 3***

This resolution proposes an amendment to section 5 of Article II of the Iowa Constitution relating to the qualification of electors.

#### ***Workers' Compensation HF 225***

Among other things, this bill allows a party to present to the clerk of court a time-stamped copy rather than a certified copy of an order of the

commissioner, for the order to have the force and effect of a court order.

#### ***Commission Member HF 311***

This bill removes the county recorder as member of ex officio jury commission.

#### ***Official Publications HF 545***

This bill amends the requirement a newspaper must satisfy to be used for purposes of publishing official notices.

#### ***New Department of Administrative Services HF 534***

This bill merges several state agencies into a new state agency, the department of administrative services. The new department shall take over the duties of the former departments of general services, information services, personnel, and revenue and finance.

The bill creates an information technology council, which includes a member appointed by the chief justice to serve as an ex officio member. The council shall advise the department in the development of procurement standards for participating agencies (which does not include the judicial branch), develop strategies for the use and provision of information technology, and review the recommendations of the Iowa Access advisory council regarding rates and value-added services. The judicial branch shall continue to have a member on the Iowa Access Council.

#### ***Reports to General Assembly HF 604***

This bill requires that annual reports required by law to be made to the general assembly include a financial information section pertaining to the topic of the report.

#### ***State Archives HF 648***

This bill consolidates the management of state archives and records. The bill creates a state records commission charged with adopting government information policies, standards, and guidelines concerning the creation, maintenance, use, security, public availability, and disposition of government records. The commission shall provide advice and services to each of the three branches of government. It shall also adopt charges for its services. The bill authorizes the commission to establish a centralized records storage facility.

The bill requires each agency head to maintain the records of the agency according to certain conditions, designate an agency records officer, cooperate with the state commission, prepare all mandated reports, newsletters and publications in electronic form in accordance with government policies, with a copy to be located at an electronic repository for public access.

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## New Legislation

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The bill also creates an historical records advisory board to serve as the central advisory body for the historical records planning in the state and as a coordinating body.

### ***Substantive Code Editor's Bill SF 155***

This bill contains statutory corrections to reflect current practices, delete redundancies and inaccuracies, delete temporary language, and remove ambiguities.

### ***Abandoned property SF 180***

This bill changes some of the requirements for dealing with abandoned property. Among other things, a holder of abandoned property is not required to make a due diligence mailing to owners whose property has an aggregate value of less than \$50. There is also a new fee the state treasurer may charge holders who fail to exercise timely due diligence.

### ***Bad Check SF 376***

This bill changes the surcharge the holder of a dishonored check may assess to not more than \$30 and removes option of collecting 5% of face value of check up to \$50.

### ***Tobacco SF 375***

This bill establishes a new crime regarding tobacco.

## Probate

### ***Gift Taxes and trusts SF 366***

Among other things, this bill amends the definition of competency in cases involving an irrevocable transfer. It also amends provisions concerning the laws governing trusts, the validity of oral trusts, and non-judicial settlement agreements.

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